

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
WILLIAM PLEMENITAS,

Plaintiff,

ANSWER

-against-

08 Civ. 3891 (KMK)

PORT JERVIS CITY SCHOOL DISTRICT,

JURY TRIAL DEMANDED

Defendant.
-----X

Defendant PORT JERVIS CITY SCHOOL DISTRICT, by its attorneys, MIRANDA SOKOLOFF SAMBURSKY SLONE VERVENIOTIS LLP, hereby answers plaintiff's complaint, upon information and belief, as follows.

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "1" of the complaint.
2. Admits the allegations contained in paragraph "2" of the complaint.
3. Denies the allegations contained in paragraph "3" of the complaint, and respectfully refers all questions of law to the Court for adjudication.
4. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "4" of the complaint.
5. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "5" of the complaint.
6. Denies the allegations contained in paragraph "6" of the complaint, except admits that plaintiff purports to assert jurisdiction as set forth therein.
7. Admits the allegations contained in paragraph "7" of the complaint.
8. Denies the allegations contained in paragraph "8" of the complaint.
9. Denies the allegations contained in paragraph "9" of the complaint.

10. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “10” of the complaint.

11. Denies the allegations contained in paragraph “11” of the complaint.

12. Denies the allegations contained in paragraph “12” of the complaint.

13. Denies the allegations contained in paragraph “13” of the complaint.

14. Denies the allegations contained in paragraph “14” of the complaint.

15. Denies the allegations contained in paragraph “15” of the complaint.

16. Denies the allegations contained in paragraph “16” of the complaint.

17. Denies the allegations contained in paragraph “17” of the complaint.

18. Denies the allegations contained in paragraph “18” of the complaint.

19. Denies the allegations contained in paragraph “19” of the complaint.

20. Denies the allegations contained in paragraph “20” of the complaint, except admits that plaintiff was brought up on disciplinary charges.

21. Denies the allegations contained in paragraph “21” of the complaint.

22. Denies the allegations contained in paragraph “22” of the complaint and respectfully refers the Court to the Notice of Discipline for its true language and context.

23. Denies the allegations contained in paragraph “23” of the complaint and respectfully refers the Court to the Notice of Discipline for its true language and context.

24. Denies the allegations contained in paragraph “24” of the complaint and respectfully refers the Court to the Notice of Discipline for its true language and context.

25. Denies the allegations contained in paragraph “25” of the complaint and respectfully refers the Court to the Notice of Discipline for its true language and context, except admits that William Onofry was involved in the drafting of the Notice of Discipline.

26. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “26” of the complaint.

27. Denies the allegations contained in paragraph “27” of the complaint, except admits that neither Mr. Onofry nor the members of the Board of Education sent plaintiff for a mental health evaluation.

28. Denies the allegations contained in paragraph “28” of the complaint.

29. Denies the allegations contained in paragraph “29” of the complaint.

30. Denies the allegations contained in paragraph “30” of the complaint.

31. Denies the allegations contained in paragraph “31” of the complaint.

32. Denies the allegations contained in paragraph “32” of the complaint.

33. Denies the allegations contained in paragraph “33” of the complaint.

34. Denies the allegations contained in paragraph “34” of the complaint.

35. Denies the allegations contained in paragraph “35” of the complaint.

36. Denies the allegations contained in paragraph “36” of the complaint.

37. Denies the allegations contained in paragraph “37” of the complaint.

38. As and for a response to paragraph “38” of the complaint, defendant repeats and realleges the denials set forth above in answer to the allegations contained in paragraphs of the complaint numbered “1” through “37” of the complaint with the same force and effect as if fully set forth at length herein.

39. Denies the allegations contained in paragraph “39” of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

40. The complaint fails to state a claim upon which relief may be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

41. Any injury alleged to have been sustained by the plaintiff was the result of plaintiff's own culpable or negligent conduct or the culpable or negligent conduct of third parties and was not the proximate result of any act of the answering defendants.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

42. Plaintiff has failed to mitigate his damages, if any, as claimed in this action.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

43. Defendant's employment policies and practices conform to the requirements of all applicable federal and state laws including, but not limited to, 42 U.S.C. § 12101, *et seq.*, and are administered in a manner that is consistent with defendant's legal obligations.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

44. Punitive damages may not be recovered against a school district such as the Port Jervis City School District.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

45. This action is not ripe for adjudication.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

46. This action is moot.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

47. Plaintiff was unable to perform the essential functions of his job, either with or without a reasonable accommodation.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

48. Plaintiff never requested that defendant provide him with a reasonable

accommodation.

WHEREFORE, defendant PORT JERVIS CITY SCHOOL DISTRICT request judgment dismissing the complaint and denying all relief requested therein, together with such other and further relief as the Court deems just and proper.

Dated: Mineola, New York
June 17, 2008

MIRANDA SOKOLOFF SAMBURSKY
SLONE VERVENIOTIS, LLP
Attorneys for Defendant
PORT JERVIS CITY SCHOOL DISTRICT

A handwritten signature in black ink, appearing to read "Stu C. Stern", written in a cursive, stylized font.

STEVEN C. STERN (SS 2573)
240 Mineola Boulevard
Mineola, New York 11501
(516) 741-7676
Our File No. 08-245

TO:
SUSSMAN & WATKINS
Attorney for the Plaintiff
P.O. Box 1005
Goshen, New York 10924
(845) 294-3991
Attn. Michael H. Sussman, Esq.